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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2015–0009; T.D. TTB–135; Ref: Notice No. 153]

RIN 1513–AC20

Establishment of the Loess Hills District Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 12,897-square mile “Loess Hills District” viticultural area in western Iowa and northwestern Missouri. This new viticultural area is not located within any other viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (dated December 10, 2013, superseding Treasury Order 120-01 (Revised), "Alcohol and Tobacco Tax and Trade Bureau," dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;

- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Loess Hills District Petition

TTB received a petition from Shirley Frederiksen, on behalf of the Western Iowa Grape Growers Association and the Golden Hills Resource Conservation and Development organization proposing the establishment of the “Loess Hills District” AVA in western Iowa and northwestern Missouri. The proposed AVA covers a long, narrow north-south orientated swath of land along the Big Sioux and Missouri Rivers, covering 12,897 square miles from Hawarden, Iowa, to Craig, Missouri. There are approximately 66 commercially-producing vineyards covering a total of 112 acres distributed throughout the proposed AVA, along with 13 wineries. The proposed Loess Hills District AVA is not located within any established AVA.

According to the petition, the distinguishing features of the proposed Loess Hills District AVA are its soil, topography, and climate. The proposed AVA is located in a region characterized by extremely deep layers of wind-deposited

soil called “loess.” Loess is a loose, crumbly soil comprised of quartz, feldspar, mica, and other materials which were ground into a fine powder by glaciers during the Ice Ages. When the glaciers melted, the water pushed this glacial flour down the Missouri River Valley. When the waters receded, the exposed silt dried and was picked up by the prevailing westerly winds and redeposited over broad areas.

The heaviest, coarsest loess particles were deposited along the Missouri River, within the proposed Loess Hills District AVA, and formed a landscape of rolling-to-steep hills. According to the petition, the rolling topography allows cold air to drain away from the vineyards, thus reducing the threat of frost. By contrast, the terrain in the regions to the north, south, and east of the proposed AVA is marked by broadly undulating hills with shallower slopes and lower elevations than are found within the proposed AVA. The terrain west of the proposed AVA is dominated by wide, flat flood plains.

The loess deposits within the proposed AVA reach depths of up to 300 feet, which are the thickest deposits of loess within the United States. The petition states that the thickness of the loess within the proposed AVA enables roots to extend deep into the soil without being stopped by a restrictive barrier such as denser soils or bedrock. The lack of a restrictive barrier also allows water to drain away from the roots quickly, which reduces the risk of fungal diseases and rot. In comparison, in every direction outside the proposed AVA, the depth of loess is 20 feet or less, which is significantly shallower than within the proposed AVA.

The petition also states that the proposed Loess Hills District AVA has a long growing season and relatively high annual precipitation amounts. The early last-spring-frost date reduces the risk that tender new buds and shoots will be damaged by spring frosts, and the late first-fall-frost date allows adequate time for late-maturing varieties of grapes, including Norton, Chambourcin, and Noiret, to ripen before frost can damage the fruit. The high precipitation amounts provide adequate hydration for the vines, so irrigation is seldom necessary within the proposed AVA. However, the rainfall amounts also pose a risk of erosion due to both the steepness of the hillsides and the loose, crumbly nature of the soils. When compared to the proposed AVA, the regions to the north, east, and west have shorter growing seasons. To the south of the proposed AVA, the growing season is longer. Annual precipitation amounts in the region south of the proposed AVA are higher, while the precipitation amounts in the region to the west are lower than those found within the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 153 in the **Federal Register** on June 18, 2015 (80 FR 34857), proposing to establish the Loess Hills District AVA. In the document, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The document also compared the distinguishing features of the proposed AVA to the features of the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a

detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 153.

In Notice No. 153, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on August 17, 2015. TTB did not receive any comments in response to Notice No. 153.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Loess Hills District AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Loess Hills District” AVA in western Iowa and northwestern Missouri, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA

name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, “Loess Hills District,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “Loess Hills District” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB is not designating “Loess Hills,” standing alone, as a term of viticultural significance due to the current use of “Loess Hills,” standing alone, as a brand name on wine labels.

The establishment of the Loess Hills District AVA will not affect any existing AVA. The establishment of the Loess Hills District AVA will allow vintners to use “Loess Hills District” as an appellation of origin for wines made

primarily from grapes grown within the Loess Hills District AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

TTB has determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Add § 9.255 to read as follows:

§ 9.255 Loess Hills District.

(a) Name. The name of the viticultural area described in this section is “Loess Hills District”. For purposes of part 4 of this chapter, “Loess Hills District” is a term of viticultural significance.

(b) Approved maps. The 13 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Loess Hills District viticultural area are titled:

- (1) Rock Rapids, Iowa–South Dakota, 1985;
- (2) Sioux City North, Iowa–South Dakota–Nebraska, 1986; photoinspected 1990;
- (3) Storm Lake, Iowa, 1985; photoinspected 1990;
- (4) Ida Grove, Iowa, 1985; photoinspected 1990;
- (5) Carroll, Iowa, 1993;
- (6) Guthrie Center, Iowa, 1993;
- (7) Creston, Iowa, 1993;
- (8) Omaha, Nebraska–Iowa, 1985; photoinspected, 1990;
- (9) Nebraska City, Nebraska–Iowa–Missouri, 1993;
- (10) Falls City, Nebraska–Missouri, 1986; photoinspected 1991;
- (11) Harlan, Iowa–Nebraska, 1980;
- (12) Blair, Nebraska–Iowa, 1986; photoinspected 1988; and

(13) Sioux City South, Iowa–Nebraska–South Dakota, 1986;
photoinspected 1990.

(c) Boundary. The Loess Hills District viticultural area is located in Fremont, Page, Mills, Montgomery, Pottawattamie, Cass, Harrison, Shelby, Audubon, Monona, Crawford, Carroll, Woodbury, Ida, Sac, Plymouth, and Sioux Counties in western Iowa and Atchison and Holt Counties in northwestern Missouri. The boundary of the Loess Hills District viticultural area is as described below:

(1) The beginning point is on the Rock Rapids, Iowa–South Dakota map, in Sioux County, Iowa, at the intersection of the Big Sioux River and an unnamed road known locally as County Road B30 (360th Street), east of Hudson, South Dakota. From the beginning point, proceed east on County Road B30 approximately 3 miles to a road known locally as County Road K22 (Coolidge Avenue); then

(2) Proceed south on County Road K22 approximately 3 miles to a road known locally as County Road B40 (390th Street); then

(3) Proceed east on County Road B40 approximately 4 miles to a road known locally as County Road K30 (Eagle Avenue); then

(4) Proceed south on County Road K30 approximately 13.1 miles, crossing onto the Sioux City North, Iowa–South Dakota–Nebraska map and continuing into Plymouth County, Iowa, to a road known locally as County Road C12 (110th Street), at Craig, Iowa; then

(5) Proceed east on County Road C12 approximately 2 miles to a road known locally as County Road K42 (Jade Avenue), at the marked 436-meter elevation point; then

(6) Proceed south on County Road K42 approximately 10 miles to a road known locally as County Road C38; then

(7) Proceed east on County Road C38 approximately 6.4 miles to a road known locally as County Road K49 (7th Avenue SE), approximately 2 miles south of La Mars, Iowa; then

(8) Proceed south on County Road K49 approximately 4 miles to a road known locally as County Road C44 (230th Street); then

(9) Proceed east on County Road C44 approximately 5 miles to a road known locally as County Road K64 (Oyens Avenue); then

(10) Proceed south on County Road K64 approximately 4.1 miles to a road known locally as County Road C60 (290th Street); then

(11) Proceed east on County Road C60 approximately 5 miles, crossing onto the Storm Lake, Iowa map, to State Highway 140; then

(12) Proceed south on State Highway 140 approximately 3.2 miles to a road known locally as County Road L14 (Knox Avenue) in Kingsley, Iowa; then

(13) Proceed south on County Road L14 approximately 2.7 miles, crossing into Woodbury County, Iowa, to a road known locally as County Road D12 (110th Street); then

(14) Proceed east on County Road D12 approximately 5 miles to a road known locally as County Road L25 (Minnesota Avenue) near Pierson, Iowa; then

(15) Proceed south on County Road L25 approximately 4.5 miles, crossing onto the Ida Grove, Iowa map, to U.S. Highway 20; then

(16) Proceed east on U.S. Highway 20 approximately 22.5 miles, crossing into Ida County, Iowa, to a road known locally as County Road M25 (Market Avenue); then

(17) Proceed south on County Road M25 approximately 9.8 miles to State Highway 175 east of Ida Grove, Iowa; then

(18) Proceed east on State Highway 175 approximately 4.1 miles to a road known locally as Country Highway M31 (Quail Avenue) near Arthur, Iowa; then

(19) Proceed south on Country Highway M31 approximately 4.4 miles to a road known locally as County Road D59 (300th Street); then

(20) Proceed east on County Road D59 approximately 13 miles, crossing into Sac County, Iowa, to a road known locally as County Road M64 (Needham Avenue/Center Street) at Wall Lake, Iowa; then

(21) Proceed south on County Road M64 approximately 6.2 miles to a road known locally as County Road E16 (120th Street); then

(22) Proceed east into Carroll County, Iowa, on County Road E16 approximately 6 miles, crossing onto the Carroll, Iowa map, to Breda, Iowa, and then continue east on State Highway 217 (East Main Street) approximately 5 miles to U.S. Highway 71; then

(23) Proceed south on U.S. Highway 71 approximately 3 miles to a road known locally as County Road E26 (140th Street); then

(24) Proceed east on County Road E26 approximately 5 miles to a road known locally as County Road N38 (Quail Avenue); then

(25) Proceed south on County Road N38 approximately 5 miles to U.S. Highway 30 (Lincoln Highway); then

(26) Proceed east on U.S. Highway 30 approximately 3 miles to a road known locally as County Road N44 (Colorado Street) in Glidden, Iowa; then

(27) Proceed south on County Road N44 approximately 8 miles, crossing onto the Guthrie Center, Iowa map, to a road known locally as County Road E57 (280th Street); then

(28) Proceed east on County Road E57 approximately 2 miles to a road known locally as County Road N44 (Velvet Avenue); then

(29) Proceed south on County Road N44 approximately 5.4 miles to State Highway 141 (330th Street) at Coon Rapids, Iowa; then

(30) Proceed west on State Highway 141 approximately 12 miles to U.S. Highway 71 at Lynx Avenue southeast of Templeton, Iowa; then

(31) Proceed south on U.S. Highway 71 approximately 35.9 miles, crossing into Audubon County, Iowa, and then Cass County, Iowa, and onto the Creston, Iowa map, to U.S. Highway 6/State Highway 83 east of Atlantic, Iowa; then

(32) Proceed west, then southwest, then west on U.S. Highway 6 approximately 18.9 miles, crossing onto the Omaha, Nebraska–Iowa map and into Pottawattamie County, Iowa, to a road known locally as County Road M47 (500th Street) approximately 1 mile west of Walnut Creek; then

(33) Proceed south on County Road M47 approximately 12 miles, crossing into Montgomery County, Iowa to a road known locally as County Road H12 (110th Street); then

(34) Proceed west on County Road H12 approximately 8.9 miles, crossing into Mills County, Iowa, to U.S. Highway 59; then

(35) Proceed south on U.S. Highway 59 approximately 20.2 miles, crossing onto the Nebraska City, Nebraska–Iowa–Missouri map and into Page County, Iowa, to a road known locally as County Road J14 (130th Street); then

(36) Proceed east on County Road J14 approximately 4 miles to a road known locally as County Road M41 (D Avenue); then

(37) Proceed south on County Road M41 approximately 1.7 miles to State Highway 48 at Essex, Iowa; then

(38) Proceed northeast then east on State Highway 48 approximately 1.2 miles to a road known locally as County Road M41 (E Avenue); then

(39) Proceed south on County Road M41 approximately 7 miles to State Highway 2 (210th Street); then

(40) Proceed east on State Highway 2 approximately 8 miles to a road known locally as M Avenue; then

(41) Proceed south on M Avenue, then east on a road known locally as County Road M60 (Maple Avenue), approximately 6.4 total miles, to a road known locally as County Road J52 (270th Street); then

(42) Proceed south in a straight line approximately 3.5 miles to the intersection of 304th Street and Maple Avenue (approximately 1.2 miles

southwest of College Springs, Iowa), and then continue south on Maple Avenue for 0.5 mile to a road known locally as County Road J64 (310th Street); then

(43) Proceed west on County Road J64 approximately 4.5 miles to a road known locally as County Road M48 (Hackberry Avenue); then

(44) Proceed south on County Road M48 approximately 1.2 miles to the Iowa-Missouri State line at Blanchard, Iowa, and, crossing into Atchison County, Missouri, where County Road M48 becomes State Road M, and continue generally south on State Road M approximately 11.2 miles, crossing onto the Falls City, Nebraska-Missouri map, to U.S. Highway 136; then

(45) Proceed west on U.S. Highway 136 approximately 1 mile to State Road N; then

(46) Proceed south on State Road N 15 miles, crossing into Holt County, Missouri, to State Road C; then

(47) Proceed west then south on State Road C approximately 3 miles to U.S. Highway 59; then

(48) Proceed northwest on U.S. Highway 59 approximately 2 miles to the highway's first intersection with Interstate Highway 29 near Craig, Missouri; then

(49) Proceed generally north along Interstate Highway 29, crossing into Atchison County, Missouri, and onto the Nebraska City, Nebraska-Iowa-Missouri map, and continuing into Freemont County and Mills County, Iowa, then

crossing onto the Omaha, Nebraska–Iowa map and into Pottawattamie County, Iowa; then crossing onto the Harlan, Iowa–Nebraska map and into Harrison County, Iowa; then continuing onto the Blair, Nebraska–Iowa map and into Monona County, Iowa; then crossing onto the Sioux City South, Iowa–Nebraska–South Dakota Map and into Woodbury County for a total of approximately 185 miles, to the intersection of Interstate Highway 29 with the Big Sioux River at Sioux City, Iowa; then

(50) Proceed generally north (upstream) along the meandering Big Sioux River, crossing onto the Sioux City North, Iowa–South Dakota–Nebraska map and into Plymouth County and Sioux County, Iowa, and continuing onto the Rock Rapids, Iowa–South Dakota map for a total of approximately 50 miles, returning to the beginning point.

Signed: January 29, 2016.

John J. Manfreda,

Administrator.

Approved: February 11, 2016.

Timothy E. Skud,

Deputy Assistant Secretary
(Tax, Trade, and Tariff Policy).

[FR Doc. 2016-04760 Filed: 3/2/2016 8:45 am; Publication Date: 3/3/2016]